IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.MC.No. 250 of 2004()

CRRP.17/2002 of SESSIONS COURT, THRISSUR
MP.12667/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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PETITIONER: REVISION PETITIONER/COMPLAINANT

RAVEENDRAN A.A. S/O. APPUKUTTA,
ALIKAL HOUSE, CHOWALLUR P.O.,
KANDASSERY, ARIKANIYUR, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: RESPONDENT/RESPONDENT & STATE OF KERALA

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1. STATE OF KERALA, REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM.

2. RAMESH, S/O. SREEDHARAN,
THEERABHOOMI BOOK STALL, GURUVAYUR,
THRISSUR DISTRICT.

R2 BY ADV. SRI.P.VIJAYA BHANU
SRI.TONY MATHEW
R1 BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 250 of 2004

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Dated this the 22nd day of June, 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 138 of the N.I. Act. The complaint was filed on 1.6.2001. The matter was posted on several dates for further progress of the case. The complainant did not appear before the learned Magistrate and even on 22.12.2001 the learned Magistrate found it impossible to record the sworn statement of the complainant. It was in these circumstances that the learned Magistrate proceeded to pass the impugned order dismissing the complaint - evidently under Section 203 Cr.P.C. as process had not been issued till then.

2. The complainant approached the learned Sessions Judge with a revision petition and the learned Sessions Judge by a detailed order, copy of which is produced as Annex.A2, came to the conclusion that the order passed by the learned Magistrate does not suffer from any illegality, irregularity or incorrectness to justify invocation of the revisional powers.

3. A second revision petition is not maintainable and it is in these circumstances that the petitioner has come to this Court

through the door of Section 482 Cr.P.C. The learned counsel for the petitioner submits that though the petitioner was absent, on all the four occasions from 1.6.2001 to 22.12.2001, this court may not be lose sight of the fact that the petitioner was present through his counsel. In these circumstances the dismissal of the revision petition is not justified and amounts to miscarriage of justice, it is urged.

4. I must alertly remind myself of the nature, quality and contours of the jurisdiction which I am called upon to exercise. Such jurisdiction is to be invoked only sparingly and in exceptional cases, that too, only in aid of justice. Such jurisdiction cannot be invoked when challenge is barred by an express provision of the Code unless the court is satisfied that failure/ miscarriage or abuse of process of court would thereby result. The learned Magistrate and the learned Sessions Judge have considered the question in detail. I am satisfied that the impugned orders do not suffer from any such vice, which would justify invocation of the jurisdiction of this Court under Section 482 Cr.P.C. Such jurisdiction cannot be invoked as a matter of course. Both courts have adverted to all the relevant facts. There is no illegality and there is no miscarriage of justice resulting from the impugned order. I am in these circumstances satisfied that it is not necessary to

invoke the powers under Section 482 Cr.P.C. to interfere with the order passed in revision. The challenge fails.

This Crl.M.C. is accordingly dismissed.

(R. BASANT)
Judge

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